

REMARKS/ARGUMENTS

Prior to entry of this amendment, claims 1-26 were pending in this application. Claims 1, 4, 8, and 13 have been amended, claims 12 and 17-26 have been canceled, and claims 27 and 28 have been added herein. Therefore, claims 1-11, 13-16, 27, and 28 are now pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

35 U.S.C. § 112 Claim Rejections

The Office Action has rejected claims 1-26 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More specifically, the Office Action alleges that the claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the Office Action points to the recitation of "assessing the reliability of the positive pay information". Amendments have been made herein that are thought to render the reasons for the rejection moot. Specifically, the recitations of "assessing the reliability of the positive pay information" have been deleted and replaced with recitation of "assigning a positive pay category". Support for the amendments presented herein can be found, for example, in FIG. 8 and the accompanying description beginning with paragraph 195 of the present specification. Thus, the Applicants respectfully request entry of the amendments and withdrawal of the rejection.

35 U.S.C. § 103 Rejection, Belyi in view of Brodie, further in view of Hanna and The Business Lawyer

Claims 1-7 and 12-26 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. No. 2005/0080717 of Belyi et al. (hereinafter "Belyi") in view of U.S. Patent No. 7,257,246 to Brodie et al. (hereinafter "Brodie"), and further in view of U.S. Patent Pub. No. 2002/0144149 of Hanna et al. (hereinafter "Hanna") and The Business

Lawyer, *Detering check fraud: The model positive pay services agreement and commentary*, Chicago, Feb. 1999, Vol. 54, Issue 2; p. 637, 48 pages (hereinafter "The Business Lawyer"). The Applicants respectfully submit that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims, as amended. Therefore, the Applicants request reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. See MPEP §706.02(j). As will be discussed below, the references cited by the Office Action do not teach or suggest each claimed limitation. For example, none of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

Belyi is directed to "a system and method of risk assessment, whereby additional information is obtained from the customer and/or the merchant at a point of sale for validation of a financial transaction." (paragraph 3) Belyi describes obtaining additional transaction information such as a customer's recent check writing history for use in re-evaluating a transaction. (paragraphs 32-34) However, Belyi does not teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

Brodie is directed to "authenticating a check-cashing transaction and assessing risks associated with a check-cashing transaction." (Col. 1, lines 14-16) Brodie describes a situation in which a particular check cashing transaction has exceeded risk management guidelines. In such a case, Brodie describes using a positive pay file to determine whether to override the guidelines. See col. 13, lines 37-60. However, Brodie does not teach or suggest,

alone or in combination with Belyi, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

Hanna is directed to "techniques for verifying membership within a group authorized to obtain access to a predetermined resource within a computer network, and more particularly, to the assignment and use of a trust rating in at least one group credential within a set of credentials in determining whether to provide access to the specified resource." However, Hanna does not describe scoring risk associated with cashing a check. Thus, Hanna does not teach or suggest, alone or in combination with the other references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

The Business Lawyer is directed to positive pay services agreements. (paragraphs 4 and 5) Such a service is described in paragraph 27. As described therein:

"Under a positive pay service, the drawer of a check delivers to its bank a 'check issue report' of all checks written over a particular period of time, usually each banking day. When checks are presented to the bank, the bank will provisionally settle for the checks and compare each check to the information on the check issue report. If a check apparently drawn by the drawer is presented to the payor bank but is not listed in the check issue report (or is listed differently in the report), the bank will identify the check as an 'exception check.' A list of exception checks is sent to the drawer for the drawer's review. Depending on the agreement between the drawer and the payor bank, the payor bank will either finally pay the exception checks unless the drawer instructs the bank to return, or alternatively, return the exception checks unless the drawer instructs the bank to pay."

However, The Business Lawyer does not teach or suggest, alone or in combination with the other references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

Claim 1, upon which claims 2-7 and 27 and 28 depend, recites in part "accessing stored positive pay information about issued checks wherein said positive pay information indicates whether a check issuer is willing to honor the presented check so as to reimburse an entity who has provided cash in return for accepting the check; assigning a positive pay category based on a comparison of the stored positive pay information and the received information about the check; and determining a positive pay risk score associated with cashing the presented check based at least in part on the assigned positive pay category." None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 1-7, 27, and 28.

Claim 13, upon which claims 14-16 depend, recites in part "a database that stores positive pay information about checks issued by check writers to payees wherein said positive pay information indicates issued checks that check writers are willing to honor; a computer processor configured to receive input about a check presented to an entity by a check presenter claiming to be a payee, the computer processor further configured to use the input to access positive pay information from the database that is associated with the payor of the check and assign a positive pay category based on a comparison of the positive pay information from the database and the received input about the check, the computer processor further configured to determine a positive pay risk score associated with accepting the check and providing cash to the payee in return for accepting the check based at least in part on the positive pay category." None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 13-16.

35 U.S.C. § 103 Rejection, Belyi in view of Brodie, further in view of Hanna and The Business Lawyer, and Engel

Claims 8-11 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Belyi in view of Brodie, and further in view of Hanna and The Business Lawyer and U.S. Patent Pub. No. 2004/0138975 of Engel et al. (hereinafter "Engel").

As noted above, Belyi, Brodie, Hanna, and The Business Lawyer do not teach or suggest, alone or in combination, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. Engel is directed to processing orders for paper checks. See paragraph 7. However, Engle is not directed to and does not disclose scoring risk associated with cashing a check or using a positive pay file in doing so. Thus, Engle also fails to teach or suggest, alone or in combination with the other references, assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category.

Claim 8, upon which claims 9-11 depend, recites in part "accessing the identified positive pay database associated with the second-party check and comparing the transmitted data and information stored in the positive pay database; assigning a positive pay category based on comparing the transmitted data and the information stored in the positive pay database; determining a risk score associated with accepting the second-party check from a processor of the check and providing valuable consideration to the possessor in return for the second-party check based at least in part on the comparison and further based upon the positive pay category." None of the references, alone or in combination, teach or suggest assigning a positive pay category and determining a positive pay risk score based at least in part on the positive pay category. For at least these reasons, the Applicants respectfully request withdrawal of the rejection and allowance of claims 8-11.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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